

TRANSPORTATION RESEARCH RECORD

Journal of the Transportation Research Board, No. 2174

**Planning
2010**

A Peer-Reviewed Publication

TRANSPORTATION RESEARCH BOARD
OF THE NATIONAL ACADEMIES

Washington, D.C.
2010

www.TRB.org

Use of Intergovernmental Networks for Establishing a Collaborative Environment in Tribal Transportation Initiatives

Best Practices

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The transportation project environment is complex as project stakeholders most often represent multiple governments because transportation systems are owned and operated by local, state, federal, and tribal governments. Surface transportation projects concerning tribal communities introduce additional complexity to the project environment as an additional layer of institutional relationships and protocols must be recognized. To achieve success on complex transportation projects, a collaborative environment must be established among project stakeholders. One strategy is to use intergovernmental networks for transportation planning and programming to address complex issues within the intergovernmental framework. These intergovernmental networks have been used in states across the nation, and specific cases that resulted from such networks have been documented. This paper investigates the intergovernmental network as a tool for creating a collaborative environment among project stakeholders. The paper also presents best practices by profiling states that have utilized intergovernmental networks for transportation planning as well as success stories resulting from intergovernmental utilization in each state.

Historically, transportation systems have provided a flow of goods and individuals across territories, states, nations, and continents. These transportation systems and their utilization in different geographical areas have created a need for relationships between peoples and various governmental bodies. Increased settlement across the nation has gone hand-in-hand with the creation and need for more advanced transportation systems.

Local, state, federal, and tribal governments often own and operate the nation's vast inventory of transportation facilities. With the expansion of settlements and the creation of cities across the nation, a need for transportation facilities is always present and different owners are challenged with providing much-needed facilities. Surface transportation projects are extremely complex as they often involve a large number of project stakeholders in the form of different governmental entities. This is especially true on projects in which tribes are among the project stakeholders as additional governmental relationships and protocols are introduced into the project environment.

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Transportation Research Record: Journal of the Transportation Research Board, No. 2174, Transportation Research Board of the National Academies, Washington, D.C., 2010, pp. 77-83.
DOI: 10.3141/2174-11

Tribes throughout the nation have a complex history and relationship with the federal government. Early recognition of tribes as separate and sovereign governments exists in Article 1 of the U.S. Constitution. The clause identifying tribes as sovereign governments gives Congress the authority to regulate commerce with many of the states, foreign nations, and Indian tribes (1). This mention of Indian tribes has been used to recognize tribes' status as governments, separate from federal or state government. As various entities and sovereign nations own land within the United States, collaboration among federal, state, and tribal governments is inevitable in the transportation planning process.

The U.S. government identified and established the need for collaboration between state, federal, and tribal governments. In fact, the Executive Branch requires consultation with tribes on projects of concern to tribal communities (2). In addition, the Legislative Branch mandates the investigation of historical sites and potential cultural properties of concern to tribes (3). However, consideration of cultural properties and impacts to tribal lands and communities can be interpreted differently by the parties involved. Crucial to project implementation and success is the collaboration between transportation agencies and tribes to ensure that all parties agree on interpretations of cultural properties.

Increasingly, federal and state policy, memorandums of understanding (MOUs), and memorandums of agreement have been utilized to establish formal working relationships between transportation project stakeholders. These initiatives have laid the foundation for intergovernmental work and initiatives among tribes, state, federal, and local governments on transportation projects affecting tribal communities. One such initiative has been the establishment of intergovernmental networks between project stakeholders within states like Arizona, Minnesota, North Dakota, and Washington. These networks allow for direct relationships between members, and increased success of transportation planning and execution.

This paper will provide a discussion of intergovernmental networks that have been established between tribal, federal, state, and local governments for transportation initiatives. The discussion will focus on best practices in intergovernmental efforts across the nation.

GOVERNMENT POLICY IN TRIBAL CONSULTATION AND SOVEREIGNTY

The U.S. Constitution recognizes tribes as sovereign nations, but efforts for consulting with tribes on a government-to-government level have only recently taken place. Tribal involvement in transportation

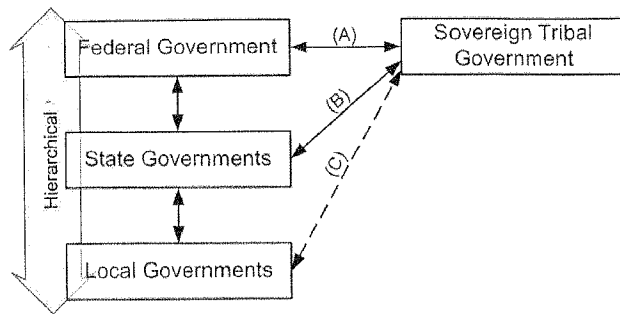


FIGURE 1 Intergovernmental relationships between federal, state, local, and tribal governments.

project planning has increased as efforts for establishing intergovernmental relationships have increased. Following a succession of executive orders (2, 4, 5), the unique relationship between tribal governments and the U.S. government has been recognized. These executive orders recognize the government-to-government relationship existing between federal and sovereign tribal governments and mandate the federal government to consult with tribes on projects that may have an effect on or be of concern to tribal governments. This relationship is at the highest level of authority, with the federal government representing the United States and tribal governments representing their respective nations, resulting in a direct, government-to-government relationship (see Figure 1a). The government-to-government relationship, as established by the respective executive orders, does not automatically flow down through the hierarchical governmental structure in which states and local governments are involved.

With transportation improvements affecting tribes and tribal lands, it is often necessary for states and local governments to consult with tribes. To enable a direct, government-to-government relationship between affected parties, many states have taken the initiative in establishing and recognizing a government-to-government relationship between the state and tribes with an interest in the state. In many states, the need for direct consultation has taken the form of formal agreements, which have been drafted and signed between the state and tribal governments residing or with interest in the state, formally establishing the government-to-government relationship (see Figure 1b). While this creates a direct relationship between the tribes and the state, the relationship between the tribes and the federal government remains the governing relationship.

These intergovernmental relationships are crucial for projects' success. With formal agreements, such as MOUs signed between tribes and states codifying the government-to-government relation-

ships between government stakeholders, project environments are conducive to success. As an example, in the state of Washington, the Centennial Accord (CA) recognized the sovereignty of both the state government and of federally recognized tribes residing in the state and their respective governments (6). Such formal agreements establish the basis of intergovernmental work within states and an environment for collaboration.

NETWORK AND STATE POLICY ANALYSIS

With the foundation laid for intergovernmental work on surface transportation projects, states have taken initiatives to formalize coordination and collaboration with tribes. Initiatives for the highest level of cooperation include those in which state, tribal, local, and federal governments establish partnerships to explore methods for coordination and collaboration on transportation projects. Such intergovernmental networks have been employed in some states for addressing transportation needs and issues on tribal lands. They serve to establish collaborative relationships between project stakeholders and network members. While the government-to-government relationship remains between tribes and the federal government—and in some cases between states and tribes—informal, direct working relationships are established between all parties (see Figure 1c).

Networks have been used as a management tool between governments to bridge information gaps (7) and to identify and share common resources. In a setting where all affected stakeholders are partners in networks, alternative solutions to transportation needs and issues can be analyzed to identify the solution of most benefit and least impact to all parties. This is most important with respect to tribes' historical and cultural sites and resources as tribal history predates European colonization of the United States, and results in an abundance of tribal historical and cultural sites. Intergovernmental networks facilitate collaboration and discussion between parties to help minimize impacts on properties and resources of all project stakeholders.

In a general sense, networks can be considered a collaboration mechanism between different governing bodies. Agranoff (7) describes four classifications of intergovernmental networks (see Table 1).

Each of these networks takes a different approach to the achievement of goals set by the individual network and defines a different level of involvement and decision-making authority from each of its members. These categories will be utilized to classify intergovernmental network types in which tribal governments are partners.

Several states have established and recognized government-to-government relationships with tribes residing in or with an interest in the state. In addition, some of these relationships have taken the form of advanced collaboration efforts through the creation of

TABLE 1 Intergovernmental Network Classifications (7)

Network Type	Description
Information	Promotes communication on policy, programs, technologies, and solutions and serves as a conduit for the transfer of knowledge. Requires that members take action on an individual basis.
Developmental	Provides education and technology opportunities to members to increase capacity of member agencies.
Outreach	Promotes resource sharing between parties in addition to information sharing. Shared resources are utilized for the creation of new programs within agencies.
Action	Promotes information and knowledge-sharing between members. Provides services and the framework for making interagency changes. Allows for decision making and plan implementation to be made by the network.

networks between stakeholders. While various levels of networks have been employed across the nation, for the purpose of this paper, four states and their respective networks have been selected as examples of different classifications of intergovernmental networks. For each network, the policy that established the foundation for such networks will be summarized. A description of the network logistics will be provided as well as examples of results-oriented actions taken by the networks. Each of the networks will be respectively categorized on the basis of the following:

- Type of network,
- State policy,
- Function and operations of the network,
- Network organization, and
- Network members.

Finally, a side-by-side comparison of these networks will be provided and summarized.

ARIZONA

Arizona Governor Janet Napolitano hosted quarterly summits with tribal leaders in the state between 2003 and 2007 (8). These summits resulted in tribal leaders in Arizona expressing the need for a guide to be used by all state agencies when consulting with tribal governments in order to facilitate the government-to-government relationships between the state and the tribes. Napolitano issued Executive Order 2006-16, Consultation and Cooperation with Arizona Tribes, which provided guidelines to all state agencies when consulting with tribes (9). The order provides direction to all state agencies to (a) implement policies for tribal consultation with federally recognized tribes, (b) appoint a staff member to act as a representative and oversee the implementation process, (c) review policy regarding consultation on a yearly basis, and (d) draft and submit an annual report to the governor, tribal leaders, and state legislature describing steps taken for achieving implementation (9).

The Arizona Department of Transportation (DOT) in 2006 adopted a departmentwide policy for consulting with tribal governments (9). The policy requires the Arizona DOT to consult with tribes on transportation projects affecting tribal communities and assist in the capacity building of each tribe. It also commits the Arizona DOT to creating formal agreements with tribes when it deems necessary and an agreement is desired by a tribe. Finally, the policy states that the Arizona DOT should share information regarding projects, technical information, and training opportunities with tribes in the state. Executive Order 2008-02, enacted by the governor, directs the Arizona DOT to maintain a database to provide information on transportation needs, a list of representative projects, and plans for a regional transportation framework (9).

Intergovernmental Network: Arizona Tribal Strategic Partnering Team

The Arizona Tribal Strategic Partnering Team (ATSPT) was established in June 1999 to advance intergovernmental relationships between the state of Arizona, tribes in the state, and federal and local agencies (8). ATSPT is a developmental network as the focus of the network's goals are on policy development, education, and capacity building of member agencies. Its goals include the education of

partners, the advancement of relationships, and the development of strategic processes and partnering (8). ATSPT participants include tribes within the state of Arizona, federal agencies including FHWA, the state of Arizona, local governments, and various other nongovernmental institutions.

ATSPT meets on a quarterly basis. In addition to meetings, the ATSPT organized three state-tribal regional transportation forums between 2002 and 2003 to educate members on transportation funding and the process of transportation coordination in Arizona. In addition to general education, partners sought to improve intergovernmental relationships and coordination, and increase tribal participation in transportation planning and programming processes (8). These forums led to the creation of more formal processes for prioritizing projects and issues through required follow-up work to be conducted on an ongoing basis. The continued meetings of ATSPT provide a collaborative environment between project stakeholders in the state of Arizona.

Case Study

The state-tribal regional transportation forums were results-oriented events organized by ATSPT to improve understanding of and participation in statewide transportation planning and programming efforts between partners. The forums resulted in a partnership between the Navajo Nation, Arizona DOT, the Bureau of Indian Affairs (BIA), and FHWA; an MOU was revived between the Navajo Nation and Arizona DOT (8). The partnership has further resulted in the creation of a website that provides information on all state-tribal transportation activities, programs, and initiatives; has been considered a National Best Practice by FHWA; and was nominated for a 2006 FHWA-FTA Transportation Planning Excellence Award (9).

MINNESOTA

At an April 1, 2002, tribal-state transportation summit, the state of Minnesota, the 11 tribes within the state, and FHWA signed the Government-to-Government Transportation Accord for improved cooperation as partners in transportation planning and programs (10). The signatories agreed to improve intergovernmental relations to achieve mutual goals of the parties, establish a framework for working partnerships between signatories, and create protocols for implementation of the framework for achieving successful partnerships. Each party agreed to show mutual respect to the government structure and culture of each of the respective partners signing the accord. This accord relies on the assumption that improving cooperation, coordination, and understanding between parties would in turn improve transportation systems, which could lead to an increase in jobs and project success.

The Government-to-Government Transportation Accord not only identifies goals for improved cooperation between parties, it also commits the signing parties to a working partnership for the implementation of the accord and requires them to meet at least once a year to discuss accomplishments and shortcomings of the accord. The meeting focuses on identifying strategies for future success in the implementation of the accord and on intergovernmental transportation projects. Parties also evaluate the partnerships established by the accord. Finally, the accord states that success can only be achieved if each respective party is accountable for continued and improved cooperation.